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Feb. 17, 1978

BAY AREA AIR POLLUTION CONTROL DISTRICT

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February 22, 1978

TO WHOM IT MAY CONCERN:

FROM: AIR POLLUTION CONTROL OFFICER

SUBJECT: NEW SOURCE REVIEW REGULATION

Attached you will find a draft of a proposal for a new source review regulation, which will be considered by the Board of Directors at a public hearing on March 15, 1978.

Any comments you may have should be addressed as soon as possible to the Chairperson of the Board of Directors.

DJC:tmc
Attachment

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BAY AREA AIR POLLUTION CONTROL DISTRICT

PROPOSED NEW SOURCE REVIEW RULES

Section 1304	Applications
Section 1306	Action on Applications
Section 1306.2	Appeals from the Denial of Applications
Section 1306.3	Appeals from the Approved, Conditional Approval or Denial of Source Subject to Sections 1308, 1309 or 1310
Section 1307	Denial -- Failure to Meet Emission Regulations
Section 1307.1	Denial -- Failure to Meet State Implementation Plan and District Regulations
Section 1308	Standards for Authorities to Construct: Best Available Control Technology
Section 1309	Standards for Authorities to Construct: Air Quality Impact Analysis
Section 1310	Standards for Authority to Operate
Section 1311	Definition for Sections 1308, 1309 and 1310
Section 1311.1	Additional Applicant Requirements
Section 1311.2	Severability

- § 1304 Applications. Every application for an authority to construct, erect, alter or replace, or an authority to operate, shall be submitted to the APCO on a form specified and contain all the information required by him. When deemed appropriate by the Air Pollution Control Officer, he shall consult with appropriate local and regional agencies to check the accuracy and adequacy of the application, and of other information submitted with or concerning the application, and to determine whether the application conforms with adopted plans and with local permit requirements.
- § 1306 Action on Applications. The APCO shall act as soon as possible but not later than 60 days from the receipt of a completed application, unless extended by written consent of the applicant, for an authority to construct, erect, alter or replace or authority to operate, and shall notify the applicant in writing of his approval, conditional approval, or denial. This provision shall not apply to applications for sources subject to Sections 1308 or 1309 or 1310 of this Regulation.
- § 1306.2 Appeals from the Denial of Applications. An applicant for a permit dissatisfied with the decision of the APCO may appeal to the Hearing Board for an order modifying or reversing the decision of the APCO by filing an appeal in writing within 10 days of notification of the decision of the APCO. This provision shall not apply to Sections 1308, 1309, or 1310 of this Regulation.
- § 1306.3 Appeals from the Approval, Conditional Approval or Denial of a Source Subject to Sections 1308, 1309, or 1310. An applicant for a permit, for a source subject to Sections 1308, 1309, 1310, or any person dissatisfied with the decision of the APCO thereon, may appeal to the Hearing Board for an order modifying or reversing the decision of the APCO. An appeal pursuant to this section must be filed in writing with the Hearing Board within 10 days of the date of publication of notice of the decision of the APCO and shall contain a summary of the issues to be raised. The Hearing Board shall consider the appeal pursuant to its rules at a public hearing within 30 days of such filing.
- § 1307 Denial -- Failure to Meet Emission Regulations. The Air Pollution Control Officer shall deny an authority to construct, erect, alter or replace, if the stationary source, facility, building, article, machine, equipment or other contrivance, the use of which may cause the emission of air contaminants, or the use of which may eliminate, reduce or control the emission of air contaminants, when operated, will not comply with the emission regulations of the District.

§ 1307.1 Denial -- Failure to meet State Implementation Plan and District Regulations. The Air Pollution Control Officer shall deny an authority to construct, erect, alter or replace a stationary source, facility, building, article, machine equipment or other contrivance, unless the applicant demonstrates that all facilities in the Air Basin which are owned or operated by the applicant are in compliance with all applicable district rules, regulations and orders, and all applicable requirements of the State Implementation Plan approved or promulgated by the federal Environmental Protection Agency under Section 110 of the Clean Air Act, including approved compliance schedules or enforcement orders issued under Section 113 of the Clean Air Act.

§ 1308 Standards for Authorities to Construct: Best Available Control Technology

(a) New Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any unit or units constituting a new stationary source if such source will emit more than 15 pounds per hour or 150 pounds per day of nitrogen oxides, organic gases, or any contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day) unless the applicant shows that the new source is constructed using best available control technology.

(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if such source after modification will emit more than 15 pounds per hour or more than 150 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 150 pounds per hour and 1500 pounds per day), unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology, and;

1. That the modification would not result in a net increase in emissions of any pollutant affected by this subsection; or
2. That best available control technology is being, or is to be, applied to all existing units of the stationary source; or
3. That emissions from all of the existing units of the stationary source are controlled by use of technology that is at least as effective as that generally in use on similar stationary sources, and that the cost of installing best available control technology on existing units is economically prohibitive and substantially exceeds the cost per unit mass of controlling emissions of each pollutant through all other control measures; or
4. That the stationary source is a small business, as defined in subsection (1) of Section 1896 of Title 2 of the California Administrative Code; that emissions from all existing units of the stationary source are controlled through application of the best technology that is economically reasonable to apply to that stationary source; and that the cost of employing best available control technology is economically prohibitive.

§ 1309 Standards for Authorities to Construct: Air Quality Impact Analysis

(a) New Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any unit or units constituting a new stationary source if such source will emit more than 25 pounds per hour or 250 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, ~~unless the Air Pollution Control Officer determines that the emissions from the new source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for the same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).~~

IF THE SOURCE IS LOCATED IN A NON-COMPLIANCE AREA FOR ANY SUCH CONTAMINANT.

IF THE SOURCE IS LOCATED IN A COMPLIANCE AREA FOR SUCH CONTAMINANT, THE APCO SHALL DENY AN AUTHORITY TO CONSTRUCT UNLESS HE DETERMINES THAT THE EMISSIONS WILL NOT INTERFERE WITH MAINTENANCE OF THE STATE OR NATIONAL AIR QUALITY STANDARD FOR SUCH CONTAMINANT ANYWHERE IN THE DISTRICT OR IN ANY OTHER AIR BASIN.

(b) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny an authority to construct for any modification of any existing stationary source if the modification will result in a net increase in emissions from the existing source of more than 25 pounds per hour or 250 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a state or national ambient air quality standard (except carbon monoxide, for which the limits are 250 pounds per hour and 2500 pounds per day), or which is a precursor of any such air contaminant, ~~unless the Air Pollution Control Officer determines that the emissions from the modified source will not cause a violation of, or will not interfere with the attainment or maintenance of, the state or national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).~~

IF THE SOURCE IS LOCATED IN A NON-COMPLIANCE AREA FOR ANY SUCH CONTAMINANT.

IF THE SOURCE IS LOCATED IN A COMPLIANCE AREA FOR SUCH CONTAMINANTS THE APCO SHALL DENY AN AUTHORITY TO CONSTRUCT UNLESS HE DETERMINES THAT THE EMISSIONS WILL NOT INTERFERE WITH MAINTENANCE OF THE STATE OR NATIONAL AIR QUALITY STANDARD FOR SUCH CONTAMINANT ANYWHERE IN THE DISTRICT OR IN ANY OTHER AIR BASIN.

(c) Determination of Emission Increases:

In determining under Section 1308(b)1 and Section 1309(b) whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to authorities to construct issued during the preceding five years, or since the adoption of this Section, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purpose of this subsection.

(d) Consideration of Future Emission Reductions: Trade-offs
INTERNAL TRADE-OFFS

In making the analysis required in subsection (g)2., the Air Pollution Control Officer shall take into consideration the air quality impact of any trade-off resulting from reductions in the emissions of the same air contaminant which are due to the elimination or modification of other existing stationary sources under the same ownership and operating within the same Air Basin. If reductions are to be based on planned elimination or modification of any such stationary sources, the Air Pollution Control Officer shall condition the permit to operate to require such elimination or modification within AT LEAST 30 DAYS PRIOR TO THE START-UP OF THE NEW OR MODIFIED SOURCE, WHEN THIS IS FEASIBLE BUT IN NO CASE LONGER THAN 90 DAYS AFTER START-UP ~~net-more-than-90-days-after-the-start-up-of-the-new-or-modified-source~~. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emissions for the purposes of this subsection.

If an applicant proposes to obtain trade-offs pursuant to this subsection, the applicant must demonstrate that there will be a net decrease in the emissions of all air contaminants SUBJECT TO SUBSECTIONS 1309a AND 1309 b emitted by the new or modified stationary source and that there will be no INTERFERENCE WITH THE ATTAINMENT OR MAINTENANCE OF AIR QUALITY STANDARDS WITHIN THE AIR BASIN OR WITHIN ANY ADJOINING AIR BASIN ~~net-air quality-deterioration-within-the-Air-Basin-or-within adjoining-air-basins~~.

APPLICANTS MEETING THE REQUIREMENTS OF THIS PARAGRAPH (d) SHALL BE EXEMPTED FROM THE REQUIREMENTS OF SECTIONS 1309 a AND b.

(e) Exemptions:

1. The Air Pollution Control Officer shall exempt from subsections (a) and (b) of this Section 1309 any new stationary source or modification of any existing stationary source which WHERE:

- A. IT will be in whole or in part a replacement for an existing stationary source on the same property if the resulting emissions of any air contaminant. FOR WHICH THERE IS A STATE OR NATIONAL AIR QUALITY STANDARD, will BE REDUCED BY AT LEAST 20% BELOW THE EMISSIONS OF THE SOURCE BEING REPLACED. net-be-increased. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portions thereof, and the new stationary source or replacement, or

~~B. -- Will cause demonstrable air quality benefits within the Air Basin, provided however, that the written concurrence of the California Air Resources Board and United States Environmental Protection Agency shall be obtained prior to the granting of an exemption hereunder. In order to show that a proposed new stationary source or modification to an existing stationary source will cause demonstrable air quality benefits within the Air Basin, an applicant must provide emission reductions or trade-offs at existing sources, or~~

B. THE PERSON RESPONSIBLE FOR THE PROPOSED NEW OR MODIFIED SOURCE EFFECTS A REDUCTION FROM OTHER SELECTED SOURCES WITHIN THE DISTRICT, OF EMISSIONS OF EACH AIR CONTAMINANT WHICH, BUT FOR THIS REDUCTION, WOULD REQUIRE A DENIAL PURSUANT TO SECTIONS 1309 a AND b, BY AN AMOUNT AT LEAST 20% GREATER THAN THE QUANTITY OF EACH OF SAID CONTAMINANTS WHICH WILL BE EMITTED BY THE PROPOSED NEW OR MODIFIED SOURCE. THE REQUIRED REDUCTIONS SHALL BE CALCULATED FROM THE BASE LINE EMISSIONS OF THE SELECTED SOURCE OR SOURCES. THE SELECTED SOURCES WHICH ARE TO EFFECT SUCH REDUCTIONS OF AIR CONTAMINANTS MAY BE CONTROLLED BY THE APPLICANT OR ANY OTHER PERSON. IN ORDER TO BE GRANTED AN AUTHORITY TO CONSTRUCT UNDER THIS SECTION, THE FOLLOWING PROVISIONS SHALL BE COMPLIED WITH BY THE PERSON SEEKING TO COME UNDER THE PROVISIONS OF THIS SECTION:

a. THE APCO SHALL BE PROVIDED SOURCE TEST DATA, OR OTHER ACCEPTABLE DATA APPROVED BY THE APCO, CERTIFIED BY A REGISTERED PROFESSIONAL ENGINEER, ON THE BASE LINE EMISSIONS OF PARTICULATE MATTER, SULFUR DIOXIDE, NITROGEN

OXIDES, NON-METHANE HYDROCARBON, AND CARBON MONOXIDE FROM THE SOURCES WHICH HAVE BEEN SELECTED FOR REDUCTION. EMISSIONS FROM THE SELECTED SOURCES MUST BE IN COMPLIANCE WITH DISTRICT EMISSION LIMITATIONS FOR THIS SECTION TO BE APPLICABLE.

- b. THE APCO SHALL BE PROVIDED PLANS, ENGINEERING DRAWINGS, AND SPECIFICATIONS OF THE MANNER IN WHICH THE REDUCTIONS FROM THE AFFECTED SOURCES ARE TO BE ACCOMPLISHED, AND THE QUANTITY OF EACH CONTAMINANT WHICH WILL BE REDUCED BY SUCH PLANS AND SPECIFICATIONS.
- c. AT LEAST THREE MONTHS PRIOR TO THE START-UP OF THE PROPOSED NEW OR MODIFIED SOURCE, WHEN THIS IS FEASIBLE, BUT IN NO CASE LONGER THAN 90 DAYS AFTER START-UP, THE PERSON SEEKING TO COME UNDER THIS SECTION SHALL INSTALL OR CAUSE TO BE INSTALLED THE EQUIPMENT SPECIFIED IN (b) ABOVE, AND PROVIDE TO THE APCO SOURCE TEST DATA, CERTIFIED BY A REGISTERED PROFESSIONAL ENGINEER ON THE EMISSION OF PARTICULATE, SULFUR OXIDES, NITROGEN OXIDES, NON-METHANE HYDROCARBON AND CARBON MONOXIDE FROM THE SOURCES OR FACILITIES WHICH HAVE BEEN SELECTED FOR REDUCTION, INDICATING THAT EMISSIONS HAVE BEEN REDUCED BY AT LEAST 20% GREATER THAN THE QUANTITY OF EACH ONE OR MORE OF SAID CONTAMINANTS WHICH WILL BE EMITTED BY THE PROPOSED NEW OR MODIFIED SOURCE.

- d. ANY AUTHORITY TO CONSTRUCT ISSUED UNDER THIS SECTION SHALL SPECIFY THAT ANY SUBSEQUENT PERMIT TO OPERATE SHALL BE CONDITIONED UPON THE NEW OR MODIFIED SOURCE NOT EXCEEDING, AT ANY TIME, THE QUANTITY OR CONCENTRATION OF AIR CONTAMINANT EMISSIONS SPECIFIED THEREIN. SIMILARLY IT SHALL SPECIFY THAT THE EMISSIONS FROM THE SOURCE OR SOURCES SELECTED FOR REDUCTION OF EMISSIONS WHEN OWNED AND OPERATED BY THE APPLICANT NOT EXCEED, AT ANY TIME, THE QUANTITY OR CONCENTRATION OF AIR CONTAMINANT EMISSIONS SPECIFIED THEREIN.
- e. WHERE THE REDUCTIONS TO BE ACHIEVED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION ARE BASED ON DIFFERING HOURS OF OPERATION OF THE SOURCE SELECTED FOR EMISSION REDUCTION AND THE SOURCE SEEKING TO COME UNDER THE PROVISIONS OF THIS SECTION, THE ALLOWABLE HOURS OF OPERATION OF THE SOURCE OR SOURCES SELECTED FOR REDUCTION OF EMISSIONS SHALL BE SET FORTH IN THE PERMIT TO OPERATE FOR THE NEW OR MODIFIED SOURCE SO THAT AT LEAST A 20% OVERALL REDUCTION IN THE QUANTITY EMITTED OF EACH SAID CONTAMINANT IS ACHIEVED.
- f. ANY VIOLATION OF ANY PERMIT CONDITION REQUIRED UNDER THIS SECTION AND APPLICABLE TO THE SOURCE WHICH IS TO REDUCE EMISSIONS, SHALL BE THE RESPONSIBILITY OF THE PERSON SEEKING TO COME UNDER THE PROVISIONS OF THIS SECTION, UNLESS THE

PERMIT TO OPERATE OF THE SOURCE WHICH IS TO
REDUCE EMISSIONS HAS BEEN MODIFIED BY THE APCO.
g. IF REDUCTION OF CONTAMINANTS FROM SOURCES WHICH
HAVE BEEN SELECTED FOR COMPLIANCE WITH THIS
SECTION ARE TO BE ACHIEVED BY REDUCED OPERATIONS
OR SHUTDOWN OF THESE SOURCES THE APCO SHALL
BE PROVIDED A CERTIFIED COPY OF A CONTRACT
OR AGREEMENT BETWEEN THE PERSON SEEKING AN
AUTHORITY TO CONSTRUCT UNDER THE PROVISIONS
OF THIS SECTION AND THE PERSON RESPONSIBLE FOR
EMISSIONS FROM THE SELECTED SOURCES FROM
WHICH EMISSIONS ARE TO BE REDUCED, WHICH
CONTAINS INFORMATION SUBSTANTIATING THE
REDUCTIONS TO BE ACHIEVED BY REDUCED OPERATIONS
OR SHUTDOWN.

h. THE DATE WHEN THE SOURCES SELECTED FOR EMISSION
REDUCTIONS ARE TO REDUCE OPERATIONS OR
SHUTDOWN, SHALL BE AT LEAST THREE MONTHS PRIOR
TO THE STARTUP OF THE NEW OR MODIFIED SOURCE
FOR WHICH A PERMIT TO CONSTRUCT HAS BEEN
ISSUED UNDER THIS SECTION WHEN THIS IS FEASIBLE.

BUT IN NO CASE LONGER THAN 90 DAYS AFTER START-UP
THE PERSON SEEKING TO COME UNDER THE PROVISIONS
OF THIS SECTION SHALL, UPON THE REQUEST OF THE
APCO, SUBMIT DOCUMENTATION TO ESTABLISH THAT
SUCH REDUCED OPERATIONS OR SHUTDOWN WILL,
WHEN COMPARED WITH THE HOURS OF OPERATION AND
LEVEL OF OPERATION OVER THE PRECEDING YEAR,
RESULT IN AT LEAST A 20% OVERALL REDUCTION IN
THE QUANTITY EMITTED OF EACH OF SAID AIR

CONTAMINANTS.

- i. THE PERSON SEEKING TO COME UNDER THE PROVISIONS
OF THIS SECTION SHALL PROVIDE TO THE APCO A
WRITTEN AGREEMENT BETWEEN THAT PERSON AND
THE PERSON WHOSE EMISSIONS ARE TO BE REDUCED,
WHICH STATES THAT ANY PERMITS TO OPERATE HELD
BY THE PERSON WHOSE EMISSIONS ARE TO BE
REDUCED MAY BE MODIFIED BY THE APCO TO SHOW
THE NEW EMISSION LIMITS OR HOURS OF OPERATION
REQUIRED TO MEET THE PROVISIONS OF THE OFF-SET
REQUIREMENTS, BEFORE AN AUTHORITY TO CONSTRUCT
OR PERMIT TO OPERATE IS ISSUED TO THE PERSON
SEEKING AN EMISSION OFF-SET. THE APCO SHALL
MODIFY THE PERMIT TO OPERATE OF THE PERSON
WHOSE EMISSIONS ARE TO BE REDUCED IF THE
PROVISIONS OF THIS PARAGRAPH ARE MET.
- IF SUCH A WRITTEN AGREEMENT IS NOT FORWARDED
TO THE APCO, THE PERSON SEEKING AN EXEMPTION
UNDER SECTION 1309(e)1B SHALL NOT QUALIFY FOR
THIS EXEMPTION.
- j. TO COMPLY WITH THIS SECTION, THE SOURCES
SELECTED FOR REDUCTION OF EMISSIONS MUST BE
LOCATED WITHIN 5 MILES OF THE NEW OR MODIFIED
SOURCE. THE APCO MAY WAIVE THE 5 MILE
LIMITATION IF THE APPLICANT CAN SHOW THAT THERE
WILL BE AN AIR QUALITY BENEFIT IF THE EMISSION
REDUCTION IS OBTAINED BEYOND THE 5 MILE LIMITA-
TION. THE APCO MAY WAIVE THE REQUIREMENT FOR

REDUCTIONS OF CARBON MONOXIDE IF THE APPLICANT SHOWS THAT CARBON MONOXIDE EMISSIONS FROM THE NEW OR MODIFIED SOURCE WILL NOT INTERFERE WITH THE ATTAINMENT OR MAINTENANCE OF CARBON MONOXIDE AIR QUALITY STANDARDS.

THE APCO MAY PERMIT INTERPOLLUTANT OFF-SETS OF NON-METHANE HYDROCARBONS FOR NITROGEN OXIDES IF THE APPLICANT DEMONSTRATES TO THE SATISFACTION OF THE APCO THAT THERE WILL BE A NET AIR QUALITY IMPROVEMENT AS A RESULT OF SUCH INTERPOLLUTANT OFFSET.

k. EMISSION OFF-SETS AUTHORIZED BY THE PROVISIONS OF THIS SECTION SHALL NOT BE APPLICABLE IN THE FOLLOWING INSTANCES:

a. WHERE EMISSIONS FROM THE PROPOSED NEW OR MODIFIED SOURCE ARE OF SUCH MAGNITUDE, AS TO CAUSE AIR QUALITY STANDARDS FOR ONE OR MORE CONTAMINANTS, (EXCEPT NON-METHANE HYDROCARBON), FOR WHICH THERE IS A NATIONAL OR STATE AIR QUALITY STANDARD, TO BE EXCEEDED, WITHOUT CONSIDERATION OF EXISTING CONCENTRATIONS IN THE AREA OF THE PROPOSED NEW SOURCE.

b. WHERE THE PROPOSED EMISSION REDUCTIONS WOULD HAVE BEEN ACHIEVED AS A RESULT OF MODIFICATIONS REQUIRED BY CHANGES IN DISTRICT, STATE OR NATIONAL REGULATIONS WITH A FUTURE EFFECTIVE DATE.

- C. IT will be used exclusively for providing essential public services such as schools hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at essential public service facilities; or
- D. IT is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortage of gaseous fuels, provided: (i) that all units constituting the modification will utilize best available control technology and provided that use of fuel oil would have been permitted under district regulations at the time of construction of the equipment using gaseous fuels without the source having been required at that time to install control equipment in addition to that which it would have to install in order to be able to be exempt hereunder and (ii) the applicant demonstrates that it made its best efforts to obtain sufficient emission trade-offs under this rule, that such efforts were unsuccessful, and that it will continue to seek the necessary emission trade-offs and apply them when they become available. Modifications for the purpose of this subparagraph shall include the addition or modification of facilities for storing, transferring and/or transporting such fuel oil at the stationary source. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become available; or
- E. IT is air pollution control equipment which, when in operation, will reduce emissions from an existing source; or
- F. IT is portable sandblasting equipment used on a temporary basis within the Air Basin.
- G. IT WILL CAUSE DEMONSTRABLE AIR QUALITY BENEFITS WITHIN THE DISTRICT AS A WHOLE PROVIDED HOWEVER THAT THE WRITTEN CONCURRENCE OF THE CARB AND USEPA SHALL BE OBTAINED PRIOR TO GRANTING AN EXEMPTION HEREUNDER.

2. The Air Pollution Control Officer may exempt from subsections (a) and (b) of this Section, any new stationary source, or modification of an existing stationary source, which has been determined to be:

- A. A new stationary source or modification of an existing stationary source utilizing unique and innovative control technology which will result in a significantly lower emission rate from the stationary source than would have occurred with the use of previously known best available control technology, and which will likely serve as a model for technology to be applied to similar stationary sources within the State. In order for a stationary source to be exempted under this subparagraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination; or
- B. A new stationary source or modification of an existing stationary source that represents a significant advance in the development of a technology OR AN INNOVATIVE APPROACH TO THE REDUCTION OF THE EMISSION OF AIR CONTAMINANTS FOR WHICH THERE ARE STATE OF NATIONAL AIR QUALITY STANDARDS WHICH WOULD RESULT IN A NET IMPROVEMENT IN AIR QUALITY that appears to offer extraordinary environmental or public health benefits or other benefits of overriding importance to the public health or welfare. In order for a stationary source to be exempted under this subparagraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination.

(f) Notice Requirements for Proposed Exemptions:

Before granting an exemption under subsection (e) 1. B., (e) 2. A., or (e) 2. B. of this Section, the Air Pollution Control Officer shall publish a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing of his intention: The applicant, the United States Environmental Protection Agency, the California Air Resources Board, and adjoining air pollution control districts. Calculations and technical data used by the Air Pollution Control Officer as the basis for granting exemptions pursuant

to subsection (e) 1. B., (e) 2. A., or (e) 2. B. shall be made available to the California Air Resources Board and the United States Environmental Protection Agency. Before granting an exemption under subsection (e) 1. B., (e) 2.A. or (e) 2. B. of this Section, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board within 15 days of the granting of an exemption under subsection (e) 1. A., (e) 1. C., or (e) 1. D.

(g) Procedure for Evaluation of Applications for Authorities to Construct:

Before granting an authority to construct for any unit of a new stationary source or modification subject to the requirements of subsections (a) and (b) of this Section, the Air Pollution Control Officer shall:

1. Require the applicant to submit information sufficient to describe the nature and amounts of emissions, location, design, construction, and operation of the source, and to submit any additional information required by the Air Pollution Control Officer to make the analysis required by this Section.
2. Analyze the effect of the operation of the new or modified stationary source on air quality in the vicinity of the new source or modified stationary source, within the Air Basin and within adjoining air basins. Such analysis shall consider the air contaminant emissions and air quality in the vicinity of the new source or modified source, within the Air Basin and within adjoining air basins at the time the new source or modification is proposed to commence normal operation. Such analysis shall be based on the application of existing federal, state, and local rules and regulations.

3. Upon completion of the evaluation, but before granting an authority to construct:
 - A. Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District, indicating the preliminary decision to grant the authority to construct and stating where the public may inspect the information required by this subsection. A copy of the notice shall also be sent to the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. The notice shall provide a period of 30 days, beginning on the date of publication, or on the date of notification of the above agencies, whichever occurs later, for the public to submit comments on the application.
 - B. Make available for public inspection at the Air Pollution Control District office, except as otherwise limited by law: the information submitted by the applicant, the Air Pollutant Control Officer's analysis of the effect of the source on air quality, and the preliminary decision to grant the authority to construct. Such information shall also be forwarded to the California Air Resources Board for review.
 - C. Consider all comments submitted. If within the 30-day notice period the Air Pollution Control Officer receives a written request from either the United State Environmental Protection Agency or California Air Resources Board to defer the Air Pollution Control Officer's decision pending the requesting agency's review of the application, the Air Pollution Control Officer shall honor such request for a period of 60 days from the date of such request.

§ 1310 Standards for Authority to Operate:

- (a) Requirement for Authority to Construct as Condition for Authority to Operate:

The Air Pollution Control Officer shall deny an authority to operate for any stationary source subject to the requirements of Sections 1308 and 1309 unless the applicant has obtained an authority to construct.

In addition the Air Pollution Control Officer shall deny an authority to operate any stationary source, facility or building, article, machine, equipment or other contrivance for which an authority to construct or operate is required, if it is not constructed substantially in conformance with the authority to construct, or if the use or operation according to design standard does not comply with the regulations of the Board.

- (b) Air Quality Impact Analysis for Sources Emitting Larger Quantities of Air Contaminants Than Assumed in the Analysis Performed Pursuant to Section 1309:

The Air Pollution Control Officer shall not grant an authority to operate to any stationary source the APCO determines emits quantities of air contaminants larger than were assumed in the analysis performed for the authority to construct for the source, unless the Air Pollution Control Officer performs the air quality impact analysis required by Section 1309 and determines that the actual emissions from the source will not cause a violation of, or will not interfere with the attainment or maintenance of, any state or national ambient air quality standard.

- (c) Conditions on Authorities to Operate or Authorities to Construct:

The Air Pollution Control Officer shall condition the issuance of an authority to operate, and an authority to construct on such terms as are deemed necessary to ensure that the stationary source will be constructed and operated in the manner assumed in making the analysis required by Section 1309 or subsection (b) of this Section whichever is applicable. Where appropriate, such conditions shall prohibit a new stationary source which is a replacement for an existing stationary source from operating unless the operation of the existing source is terminated. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portion thereof, and the new stationary source or replacement portions thereof.

- (d) Exemptions:

The Air Pollution Control Officer shall exempt from the provisions of this Section any stationary source which:

1. Has received an authority to construct prior to this amendment of Section 1309, provided however, that any such source will be required to obtain an authority to operate in accordance with the provisions of this Division which were in effect prior to this amendment of Section 1310, and provided further that any exemption granted hereunder shall not apply to any subsequent modification of such source.
2. Is a continuing operation, without modification, of a stationary source that was previously exempt from the permit provisions of these Regulations and an authority to operate is required solely because of a change in permit exemptions stated in Section 1316.

§ 1311 Definitions for Sections 1307, 1307.1, 1308, 1309, 1310, and 1311.1

- (a) STATIONARY SOURCE means a unit or an aggregation of units of nonvehicular air-contaminant-emitting equipment which is located on one property or on contiguous properties; which is under the same ownership or entitlement to use and operate; and, in the case of an aggregation of units, those units which are related to one another. Units shall be deemed related to one another if the operation of one is dependent upon, or affects the process of, the other; if their operation involves a common or similar raw material, product, or function; or if they have the same first three digits in their standard industrial classification codes as determined from the Standard Industrial Classification Manual published in 1972 by the Executive Office of the President, Office of Management and Budget.

In addition, in cases where all or part of a stationary source is a facility used to load cargo onto or unload cargo from cargo carriers, other than motor vehicles, the Air Pollution Control Officer shall consider such carriers to be parts of the stationary source. Accordingly, all emissions from such carriers (excluding motor vehicles) which will result in an adverse impact on air quality in the State of California shall be considered as emissions from such stationary source. Emissions from such carriers shall include those that result from operation of the carriers' engines; the purging or other method of venting of vapors; and from the loading, unloading, storage, processing, and transfer of cargo.

- (b) MODIFICATION means any physical change in, or any change in the method of operation of, a stationary source.

For the purpose of this definition:

1. Routine maintenance or repair shall not be considered to be physical changes, and
2. An increase in production rate or operating hours shall not be considered to be a change in the method of operation, provided that these increases are not contrary to any existing authority to operate conditions.

~~(c) BEST AVAILABLE CONTROL TECHNOLOGY means the maximum degree of emission control for any air contaminant emitting equipment, taking into account technology which is known but not necessarily in use, provided that the Air Pollution Control Officer shall not interpret best available control technology to include a requirement which will result in the closing and elimination of or inability to construct a tourist business which could be operated with the application of the best available control technology currently in use.~~

(c) BEST AVAILABLE CONTROL TECHNOLOGY MEANS CONTROL TECHNOLOGY WHICH IS CURRENTLY IN USE ON EXISTING SOURCES OR FACILITIES AND WHICH ACHIEVES AN EMISSION RATE OF THE CONTROLLED CONTAMINANT(S) THAT IS AT LEAST AS LOW AS THAT ACHIEVED BY ANY SIMILARLY PROVEN TECHNOLOGY. THE APCO SHALL DESIGNATE THE CONTROL TECHNOLOGY PERFORMANCE WHICH SHALL BE REQUIRED FOR EACH APPLICANT SUBJECT TO THE REQUIREMENTS OF SECTION 1308. IN MAKING SUCH DETERMINATION, THE APCO SHALL UTILIZE THE DEFINITION SET FORTH IN SECTION 169(3) OF THE CLEAN AIR ACT OF 1977.

- (d) BASE LINE EMISSIONS MEANS THE ACTUAL EMISSION OF PARTICULATE MATTER, CARBON MONOXIDE, ORGANIC COMPOUNDS, SULFUR OXIDES OR NITROGEN OXIDES, AS DETERMINED BY SOURCE TEST PROCEDURES OR OTHER ACCEPTABLE METHODS APPROVED BY THE APCO, OF THE SOURCE OR FACILITY SELECTED FOR EMISSION OFF-SET. FOR EACH CONTAMINANT, EMISSIONS SHALL BE CALCULATED AS AVERAGE DAILY EMISSIONS.
- FOR SOURCES OR FACILITIES OPERATING 24 HOURS PER DAY, AVERAGE DAILY EMISSIONS SHALL BE CALCULATED FROM SOURCE TEST DATA COLLECTED OVER SEVERAL 60-MINUTE PERIODS OR OTHER ACCEPTABLE METHODS APPROVED BY THE APCO, AND EXTRAPOLATED TO 24 HOURS.
- FOR SOURCES OR FACILITIES OPERATING LESS THAN 24 HOURS PER DAY, AVERAGE DAILY EMISSIONS SHALL BE CALCULATED FROM SOURCE TEST DATA COLLECTED OVER SEVERAL 60-MINUTE PERIODS OR OTHER ACCEPTABLE METHODS APPROVED BY THE APCO, AND EXTRAPOLATED TO THE ACTUAL NUMBER OF HOURS OPERATED.
- ALL REDUCTIONS REQUIRED UNDER THIS SECTION SHALL BE CALCULATED FROM THE BASE LINE EMISSIONS AS DETERMINED ABOVE. ANY REDUCTIONS REQUIRED UNDER SECTION 1309(e)1B FROM BASE LINE EMISSIONS MUST RESULT IN A REDUCTION AT LEAST 20% MORE THAN THE EMISSIONS FROM THE NEW OR MODIFIED SOURCE SEEKING TO COME UNDER THE PROVISIONS OF SECTION 1309(e)1B.

- (e) NON-COMPLIANCE AREA FOR PURPOSES OF SECTION 1309
MEANS THAT AREA WITHIN THE DISTRICT WHERE AIR
MONITORING DATA OR DATA INTERPOLATED FROM THE
TWO CLOSEST AIR MONITORING STATIONS INDICATES
THAT WITHIN THE PAST 12 MONTHS PRIOR TO THE DATE
OF ANY APPLICATION TO COME UNDER THE PROVISIONS
OF SECTION 1309, AIR QUALITY STANDARDS ADOPTED
BY THE EPA OR THE ARB HAVE BEEN EXCEEDED FOR
REASONS UNRELATED TO SPECIFICALLY IDENTIFIED
UPSETS.
- (f) COMPLIANCE AREA FOR PURPOSES OF SECTION 1309
MEANS THAT AREA WITHIN THE DISTRICT WHERE AIR
MONITORING DATA OR DATA INTERPOLATED FROM THE
TWO CLOSEST AIR MONITORING STATIONS INDICATES
THAT WITHIN THE PAST 12 MONTHS PRIOR TO THE DATE
OF ANY APPLICATION TO COME UNDER THE PROVISIONS
OF SECTION 1309, AIR QUALITY STANDARDS ADOPTED BY
THE EPA OR THE ARB HAVE NOT BEEN EXCEEDED EXCEPT
AS A RESULT OF UPSETS.
- (g) UPSETS FOR PURPOSES OF THESE SECTIONS ARE ACCIDENTAL
RELEASES OF AIR CONTAMINANTS THAT RESULT FROM
HUMAN ERROR OR EQUIPMENT FAILURE AND ARE NOT
INHERENT IN THE DESIGN OF THE SOURCE INVOLVED.

§ 1311.1 Additional Applicant Requirements:

Receipt of an authority to construct or an authority to operate shall not relieve the stationary source owner or operator of the responsibility to comply with Sections 1308 or 1309 or any other applicable portions of the District's Rules and Regulations.

§ 1311.2 Severability:

If any portion of Sections 1308, 1309, 1310 or 1311 shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions, which shall continue to be in full force and effect.

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